IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WP(C).No. 30085 of 2006(F)

PETITIONER:

M.I.BABY, SUB INSPECTOR OF POLICE,
DISTRICT CRIME RECORDS BUREAU,
MALAPPURAM.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.PETER JOSE CHRISTO

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. INSPECTOR GENERAL OF POLICE,
NORTH ZONE, KOZHIKODE.

3. DEPUTY INSPECTOR GENERAL OF POLICE,
THRISSUR RANGE, THRISSUR.

BY GOVT. PLEADER MR. BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON 21/12/2006 DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P(C) No.30085 OF 2006
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Dated this the 21st December, 2006

J U D G M E N T

The petitioner is a Sub Inspector of Police in the General Executive Wing of the Police Department. Respondent No:3 passed Ext.P1 order dated 22.6.2001 to hold non-oral enquiry into certain allegations constituting dereliction of duty and misconduct against the petitioner. The Deputy Superintendent of Police, Crime Detachment, Palakkad issued Ext.P2 memo of charges directing the petitioner to submit his explanation. The gist of the allegation against the petitioner was that he failed to conduct investigation into Crime Nos: 168/96, 180/96 and 183/96 of Kozhinjampara Police Station and that he had falsely recorded in the FIRs index that the above cases had been charge sheeted and that the above conduct of the petitioner resulted in a miscarriage of justice.

2. Since no explanation was received from the petitioner, the Deputy Superintendent of Police drew up the punishment roll minutes on 31.10.2001 finding the petitioner guilty of the charges. The third

respondent accepted the findings of the Enquiry Officer and awarded the penalty of postponement of his next increment for six months without cumulative effect, vide Ext.P3 order dated 28.1.2002. Ext.P3(a) is the copy of the punishment roll minutes.

3. Against Ext.P3 the petitioner preferred appeal dated 10.4.2002 before the second respondent. As per Ext.P5 the appeal was dismissed. The petitioner filed a review petition before the Government. As per Ext.P6 order dated 22.10.2005 the review petition has been rejected. Thereafter the petitioner has filed Ext.P7 petition before the Government. The petitioner says that no orders have been passed on Ext.P7.

4. Heard the learned counsel for the petitioner. The fact that the petitioner did not submit his defence statement within the time permitted is a pertinent point that would weaken the contentions of the petitioner. Though it is stated that he had made an application for the supply of certain documents for the purpose of submitting the written statement of defence, the petitioner has not produced any material to substantiate the above contention. The enquiring

authority or for that matter the disciplinary authority cannot be found fault with for not supplying relevant documents to the delinquent employee unless he lodges, promptly, a request in that behalf before the enquiring authority or the disciplinary authority. There is nothing to show that any of them had received any such request from the petitioner. It appears that he was not all diligent in alerting the officers to supply him the documents in time. He did not request for extension of time fixed for the submission of his written statement of defence.

5. The proceedings initiated against the petitioner is one for the imposition of a minor penalty. Hence no question of examining witnesses or proving documents arises. The disciplinary authority is entitled to look into the materials on record including the written statement of defence if any, available on record and to finalise the disciplinary proceedings accordingly. Since the petitioner did not take care to file the written statement within the time stipulated or make any request to grant additional time for filing the written statement, the only course

open to the enquiry officer was to draw the report of enquiry based on the materials available on record.

6. The contention of the petitioner that the charge was framed by the Deputy Superintendent of Police and not by the D.I.G and the same would vitiate the disciplinary proceedings is without any merit. The enquiring authority is also empowered to frame charges. The order imposing penalty on the petitioner has been passed by the D.I.G who is the disciplinary authority competent to pass such orders. The review petition has been rightly rejected by the Government. There is no provision for filing one more review petition before the Government. Hence the petitioner cannot have any legitimate grievance in not considering Ext.P7 representation.

7. Ex.P3(a) report shows that the petitioner was found guilty based on cogent and reliable materials. Hence, no interference is called for. The penalty imposed is minor and not at all excessive. There is no substance in the contention of the petitioner that the impugned orders would result in a miscarriage of justice. I am not able to appreciate such a contention

coming from the side of an officer who was not diligent, if not indifferent, in defending his case before the disciplinary authority. The writ petition fails and is dismissed.

K.K. DENESAN
JUDGE

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